



# भारत का राजपत्र The Gazette of India

असाधारण  
EXTRAORDINARY

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PART II—Section 2

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।  
Separate paging is given to this Part in order that it may be filed as a separate compilation

## RAJYA SABHA

The following Bills were introduced in the Rajya Sabha on the 6th July, 1982:—

I

BILL No. XV OF 1982

*A Bill to provide for reservation of posts in Services in connection with the affairs of the Union and of seats in educational institutions in favour of the backward class citizens.*

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. This Act may be called the Reservation of Posts in the Central Government Services and seats in the educational institutions for the Backward Classes Act, 1982.

Short title.

2. Twenty-seven per cent. of appointments to the Services and posts in the Government of India and the Public Sector Undertakings controlled by that Government shall be reserved for the candidates belonging to the Backward Classes.

Reserva-  
tion of  
jobs for  
the Back-  
ward  
Classes.

3. The quota of reservation mentioned in section 2 shall be filled up generally according to the following scheme:

Over-all  
Scheme of  
Reserva-  
tion.

(i) candidates belonging to the Backward Classes recruited on the basis of merit in an open competitive examination shall not be adjusted against the reservation quota of twenty-seven per cent.;

(ii) the reservations under section 2 shall be applicable to promotions at all levels;

(iii) reserved quota remaining unfilled shall be carried forward for a period of three years.

Reserva-  
tion of  
seats in  
education-  
al institu-  
tions for  
the Back-  
ward  
Classes.

4. Twenty-seven per cent. of seats in the Universities, and other institutions and agencies covered by Entries 63, 64, 65 and 66 of List 1 of the Constitution and those educational institutions or agencies which receive financial assistance from the Government of India in one form or the other shall be reserved for candidates belonging to the Backward Classes.

Govern-  
ment of  
India to  
specify  
Backward  
Classes.

5. The Government of India shall specify, from time to time, by notification in the Official Gazette, the class or classes of citizens who are to be treated as socially and educationally Backward Classes for the purposes of this Act.

## STATEMENT OF OBJECTS AND REASONS

Pandit Jawaharlal Nehru, in his address to the Congress Parliamentary Party on December, 2, 1954 had stated as follows:

"We talk about casteism and we condemn it as we should. But the fact remains that half a dozen or may be 10, so-called superior castes dominate the Indian scene among the Hindus. There is no doubt about it. And if I talk about the removal of casteism, don't understand by that that I want to perpetuate the present classification, some people at the top and other people at the bottom. If we don't equalise or tend to equalise, undoubtedly, casteism will flourish in a most dangerous way".

2. Even today the monopoly in education and the consequent predominant representation in the Government services by these "superior castes" has not changed. This will be evident from the fact that the other Backward Classes constitute only 12.55 per cent of the total number of Central Government employees whereas their aggregate population is 52 per cent and their representation in Class I jobs is only 4.69 per cent, i.e., less than 1/10th of their proportion to the country's total population.

3. The principle of reservations may be anathema to advocates of the principle of equality. But caste *dharma* has subjected the Backward Classes to calculated oppression and habitual submission for many centuries. It would be impossible to raise their standard if the doctrine of equal opportunity is strictly enforced. It is a dictum of social justice that there is equality only among equals. They need the adventitious aids if they are to enter the open field of competition until such time when they can stand on their own legs. Reservation is one such aid.

4. Who are the "backward classes of citizens"? It is not defined in the Constitution. But they are treated as being similar to the Scheduled Castes and the Scheduled Tribes which have been defined and known to be backward. Those other classes of citizens as well who are equally or may be somewhat less backward than the Scheduled Castes and the Scheduled Tribes although not stigmatized by untouchability have been called "Other Backward Classes" and it was thought that some special provisions should be made for the advancement of the other Backward Classes as well. *Therefore when the other Backward Classes demand reservation in the Public Services and Educational Institutions it should not be construed as mercy petitions but as the legitimate claim of their constitutional rights, as our Constitution has provided them with special provisions necessary to remedy their special inequalities.*

5. Article 16(4) provides for the reservation of public services in favour of any backward class of citizens who are inadequately represented. This Article does not specifically mention about the Scheduled Castes and the Scheduled Tribes. But the Courts have held that the term "backward classes" used in that Article would naturally include them. Originally there was no reservation in educational institutions.

The verdict of Supreme Court invalidated the Madras reservations in educational institutions and by implication barred all preferential treatment outside the sphere of Government employment. Because of public agitations in Madras the First Amendment to the Constitution was made in 1951 and Clause (4) in Article 15 was included to make special provision for the advancement of any "socially and educationally backward classes of citizens or for the Scheduled Castes and Scheduled Tribes". It is now settled that the expression "Backward Class of Citizens" in Article 16(4) means the same as the expression "any socially and educationally backward class of citizens" in Article 15(4). *(It should be noted that reference to economic backwardness has been advisedly left out of these Articles)*. As these provisions enable protective discrimination abridging to that extent the fundamental right to equality and fundamental right prohibiting discrimination on grounds of religion, race, caste, sex and place of birth, these Articles are considered by the Backward Classes as a Charter of Rights.

6. By Article 340 the President is required to appoint a Commission for the determination of other Backward Classes so as to enable him to specify them under Article 338. The President is yet to specify them in spite of the reports of the two Backward Classes Commissions. But the Courts have held that in the absence of Presidential specification of Backward Classes the State could specify them.

7. Articles 15(4) and 16(4) are common to both Central and State Governments. But in pursuance of those Articles only State Governments and Union Territories are implementing reservations in their services and educational institutions, even though the quantum varies. It is unfortunate that the Central Government has so far not taken any positive action in this direction which is considered as a serious lapse. This Bill attempts to fill the gap and give legal force to the important recommendation of the Mandal Commission regarding twenty-seven per cent reservation.

8. It will not be difficult for the Government of India to identify the socially and educationally Backward Classes and notify them for the purposes of this Act. The Mandal Commission has identified them in its Report. Otherwise, the Government may safely adopt the lists of other Backward Classes already drawn up by several State Governments, which are already tested and upheld by the Courts.

Hence this Bill.

MURASOLI MARAN

## II

## BILL No. XXI OF 1982

*A Bill further to amend the Constitution of India*

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Constitution (Amendment) Act, 1982.

Short  
title  
and com-  
mence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In article 74 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

Amend-  
ment of  
article  
74.

“(1) There shall be a Council of Ministers with the Prime Minister at the head to aid and advise the President who shall, in exercise of his functions, act in accordance with such advice except in respect of the matters hereinafter provided, that is to say,—

(a) in exercise of his functions under Chapter IV of Part V of the Constitution relating to the Union Judiciary, the President shall act in accordance with the advice of the Supreme Court;

(b) in exercise of his functions under Chapter V of Part VI of the Constitution relating to the High Courts in the States, the President shall act in accordance with the advice of the Supreme Court which shall give such advice in consultation with the High Court concerned;

(c) in exercise of his functions under article 155 relating to the appointment of the Governor of a State and under article 324 relating to appointment of the Chief Election Commissioner and other Election Commissioners, the President shall act in accordance with the advice of a Committee consisting of the Prime Minister, the Leader of the Opposition in the House of the People, the Leader of the Council and the Leader of the Opposition in the Council of States, with the Vice-President of India as the Chairman of that Committee.

*Explanation.*—The Leader of the Opposition in the House of the People shall be the Leader of the largest Group therein; the Leader of the Council of States shall be the Leader of the Party in power in the Council; and the Leader of the Opposition in the Council of States shall be the Leader of the Largest Opposition Group in the Council."

Amend-  
ment of  
article  
75.

3. In article 75 of the Constitution, in clause (1), for the words "the Prime Minister shall be appointed by the President", the Words "The President shall appoint a person elected as the Leader of the House of the People by its members, to be the Prime Minister", shall be substituted.

Amend-  
ment of  
article  
124.

4. In article 124 of the Constitution,—

(a) for clause (1), the following clause shall be substituted, namely:—

"(1) There shall be a Supreme Court of India consisting of a Chief Justice of India and such other Judges as the President may from time to time appoint.";

(b) for clause (2), the following clause shall be substituted, namely:—

"(2) Every Judge of the Supreme Court shall be appointed by the President by warrant under his hand and seal on the advice of the Supreme Court:

Provided that the senior-most Judge of the Supreme Court shall be appointed as the Chief Justice of India."

Amend-  
ment of  
article  
126.

5. In article 126 of the Constitution, for the words "such one of the other Judges of the Court as the President may appoint for the purpose" the words "the next senior-most Judge of the Supreme Court appointed by the President for the purpose" shall be substituted.

Amend-  
ment of  
article  
156.

6. In article 156 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

"(1) The Governor shall not be removed from his Office except in like manner and on the like grounds as a Judge of the Supreme Court."

Amend-  
ment of  
article  
164.

7. In article 164 of the Constitution, in clause (1), for the words "The Chief Minister shall be appointed by the Governor", the words "The Governor shall appoint a person elected as the Leader of the Legislative Assembly by its members as the Chief Minister" shall be substituted.

8. In article 217 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

Amend-  
ment of  
article  
217.

“(1) Every Judge of a High Court shall be appointed by the President by warrant under his hand and seal on the advice of the Supreme Court which before giving such advice shall consult the High Court concerned:

Provided that—

(a) the senior-most Judge of the High Court shall be appointed as its Chief Justice;

(b) a Judge may, by writing under his hand addressed to the President, resign his office;

(c) a Judge may be removed from his Office by the President in the manner provided in clause (4) of article 124 for the removal of the Judge of the Supreme Court;

(d) the office of a Judge shall be acted by his being appointed by the President to be a Judge of the Supreme Court or his being transferred by the President to any other High Court within the territory of India.

9. In article 222 of the Constitution, for clause (1), the following clause shall be substituted, namely:—

Amend-  
ment of  
article  
222.

“(1) The President may transfer a Judge from one High Court to any other High Court.”

10. In article 223 of the Constitution, for the words “such one of the other Judges of the Court as the President may appoint for the purpose”, the words “the next senior-most Judge of the High Court appointed by the President for the purpose” shall be substituted.

Amend-  
ment of  
article  
223.

11. In article 233 of the Constitution, in clause (1) for the words “in consultation with” the words “on the advice of”, shall be substituted.

Amend-  
ment of  
article  
233

12. In article 324 of the Constitution, in clause (2) the words “subject to the provisions of any law made in that behalf by Parliament”, shall be omitted.

Amend-  
ment of  
article  
324.



## STATEMENT OF OBJECTS AND REASONS

This Bill seeks to advance the spirit of our federal Constitution which provides for the three wings of the State, *viz.*, Executive, Judiciary and the Legislature.

2. It has been noticed that the Executive has tried to misuse the provisions of article 74 of the Constitution, wherein it has been provided that the President shall act on the advice of the Council of Ministers headed by the Prime Minister. Even in the matter of appointment of Judges and Chief Justice of the Supreme Court and of the High Courts, the Central Government has arbitrarily acted and has not even heeded to the advice given by the Chief Justice of India. In 1973, there was supersession of three senior-most Judges of the Supreme Court and a junior Judge was appointed as the Chief Justice of India. Again in 1977, there was supersession of a senior-most Judge in the Supreme Court. In the High Courts also supersessions have taken place. The Executive has also not confirmed some Judges as their judgments were not convenient to it. These actions are not in keeping with the federal spirit of the Constitution.

3. During the pre-independence period, there was hue and cry by our countrymen that there should be separation of the judiciary from the executive. After independence, this was achieved to a great extent at the lower level and the Magistracy was separated. Now the judicial magistrates, munsifs, sessions Judges and district Judges are under the superintendence and control of the High Courts. However, it is interesting that the appointment of the Judges of the High Courts are made by the Executive. Similarly, the appointments to the highest Judiciary, *i.e.* the Supreme Court, are also made by the Executive and the President has to sign the warrant of appointment on the advice of the Council of Ministers under article 74 of the Constitution. Legal cases involving high stakes against the Government are brought before the High Courts and the Supreme Court. It is, therefore, necessary that the appointment of the Judges of the High Courts and the Supreme Court should not be left in the hands of the Executive. With that end in view, the Bill proposes to amend the relevant articles of the Constitution so that the Supreme Court which is the highest Judiciary in the country could advise the President directly in the matter of appointment of the Judges of the Supreme Court and of High Courts.

4. Independence of the Election machinery in our Constitution is as important as the independence of the Judiciary. The Election Commission plays a very important role in the implementation of our election law. The ruling party should not be allowed to make appointment to this high office. The Bill proposes suitable amendment in article 74 for the purpose.

5. The Governor of a State also performs important functions under the Constitution. He is appointed by the President on the advice of the



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Council of Ministers at the Centre and holds office during the pleasure of the President. He can be dismissed by the President at any time the Council of Ministers headed by the Prime Minister desires him to do so. In these circumstances, he is not expected to function fearlessly and to discharge his constitutional functions independently. It is, therefore, necessary to give him the same protection as is given to a Supreme Court Judge under article 124(4) of the Constitution in the matter of removal from office.

6. These amendments to the relevant provisions of the Constitution have become necessary to protect our democratic constitution.

Hence this Bill.

J. P. GOYAL.

### III

BILL No. XXII OF 1982

*A Bill to provide for the regulation and abolition of deposits and fees and for matters connected therewith.*

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

short  
title,  
extent  
and  
com-  
mence-  
ment.

1. (1) This Act may be called the Deposits and Fees (Regulation and Abolition) Act, 1982.

(2) It extends to the whole of India.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

Defini-  
tions.

2. In this Act, unless the context otherwise requires, —

(a) “Commission” means any statutory or non-statutory body or board which conducts examinations for recruitment or for appointment to any services of the Central Government or any of its departments or undertakings or organisations and includes the Union Public Service Commission, National Defence Academy, Banking Services Recruitment Boards, Subordinate Services Recruitment Commission, Territorial Army Recruitment Board, Railway Service Commission and the like.

(b) "deposit" means any sum of money required and paid as pledge or earnest money but does not include any sum required to be deposited at the time of filling a tender or undertaking a contract of a commercial character or a deposit of money accepted from the public merely for the purpose of financing business.

(c) "public authority" includes any agency, body, department or organisation, company or undertaking of the Central Government or functioning under the control of that Government or a company to which the provisions of the Companies Act, 1956, apply, which is engaged in the supply of goods or rendering of services to a consumer or a customer.

1 of 1956

3. No public authority shall demand or accept any deposit for supply of goods or rendering of any services to any customer or consumer in the course of a commercial transaction without the permission of the Central Government.

Prohibition of acceptance of deposits.

4. The Central Government shall not grant permission to a public authority referred to in section 3 unless it is satisfied that it is necessary or expedient for it to do so in the interest of the prompt recovery of dues from a person to whom goods are to be supplied or have been supplied, or services are to be rendered, as the case may be.

Grant of permission by the Central Government.

5. Where the Central Government has granted permission to a public authority to accept deposits, the public authority shall be required to pay interest on the deposit at such rate as the Central Government may prescribe by rules made under this Act.

Payment of interest on deposits.

6. No fees by whatever name called shall be charged by any Commission from any candidate who applies for, or appears at, any examination conducted for recruitment, appointment or promotion to any post or service of the Central Government or of any of its departments, organisations or undertakings.

Prohibition of charging of fees.

7. (1) The Central Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power to make rules.

(2) Every rule made by the Central Government under this Act shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

The tendency to demand deposits for certain items of purchase or for providing certain services has increased of late. Large amounts are thus collected by the Central Government, the State Governments and the managements of public and private sector undertakings. The non-refundable fees are charged from the candidates for making application for any post. The candidates are also required to pay for postal orders in connection with getting the application form or a copy of the prospectus. The amounts so collected run into several lakhs. This tendency is more in the private sector who charge more fees to be utilised by them for their own ends. Charging of fees in this way is nothing but a tax on unemployed persons and is not a healthy practice. Similarly, the consumers are required to make sizeable deposits for the purchase of certain articles or vehicles or for certain services. The money collected on account of such deposits is utilised by the managements for their purposes but no interest is paid on the deposits to the depositors. It is, therefore, necessary that there should be a legislation to prohibit acceptance of deposits and fees of all kinds.

Hence this Bill.

S. W. DHABE

## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 5 of the Bill provides for payment of interest on the deposits made at such rate of interest as the Central Government may prescribe by rules made under the Act.

Clause 7 of the Bill provides for the Central Government to make rules for carrying out the purposes of the Act and for laying the rules before each House of Parliament.

The delegation of legislative power under the aforementioned provisions relates to matters of administrative detail or procedure. Hence the delegation of legislative power is of a normal character.

## IV

## BILL No. XIX OF 1982

*A Bill to provide for uniform pay scales for public servants of various categories.*

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Uniform Pay Scale Act 1982.

Short title,  
extent  
and  
commence-  
ment.

(2) It extends to the whole of India except the State of Jammu and Kashmir.

(3) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. For the purposes of this Act “public servant” means any employee of the Central Government or of any undertaking, corporation, board or any other body set up and wholly or partially financed by the Central Government and shall include the Central Universities.

Definition.

3. The Central Government shall appoint a National Commission consisting of three persons who will be experts in the field of administration, management and finance, to categorise all public servants in the hierarchy in well-defined categories and establish equivalence wherever necessary between jobs requiring comparable levels of education or training or knowledge or expertise or experience, notwithstanding their designation.

Appoint-  
ment of  
National  
Commis-  
sion  
to prepare  
uniform  
categories  
of service.

Uniform  
pay scales  
for each  
category  
of  
employees.

4. The Central Government shall prescribe uniform pay scales and terms and conditions of service for each category of its employees.

Pay scales  
to be  
index-  
ed to  
infla-  
tion.

5. The pay scales as well as all monetary ceilings and limits shall be indexed to inflation at the beginning of each financial year.

Power to  
make  
rules.

6. (1) The Central Government shall make rules for carrying out the purpose of this Act.

(2) Every rule made under this act shall be laid as soon as may be, before each House of Parliament while it is in Session for a total period of thirty days, which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions as aforesaid, both the Houses agree in making any modification in the rule or both Houses agree that the rule should not be made; the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be, without prejudice to the validity of anything previously done under that rule.

## STATEMENT OF OBJECTS AND REASONS

Over the years there has been a multiplication of pay scales applicable to the employees of various Ministries/Departments of the Central Government as well as the autonomous bodies and subordinate offices attached thereto. This has arisen primarily because of unscientific categorisation of posts as and when they are created and also for historic reasons when existing organisations were brought under the purview of the Central Government e.g. when the banks were nationalised.

Wide disparity in the pay scale of employees, performing essentially similar functions from one organisation to other, although in a general sense serving under the Central Government, has had an adverse effect not only on the morale of the employees who were already posted but also encouraged lateral movement from one organisation to another. Both these factors have affected the functioning of the administration. On the whole, this has also led to unnecessary agitation for wage revisions.

It is, therefore, considered desirable that all jobs should be scientifically categorised according to the education, training or expertise required and uniform pay scales should be prescribed for each category of employees irrespective of the organisation they serve.

Hence this Bill.

SYED SHAHABUDDIN



## FINANCIAL MEMORANDUM

Clause 3 of the Bill provides for the constitution of a National Commission consisting of three Members to be appointed by the Central Government. This would entail recurring expenditure from the Consolidated Fund of India to the tune of about rupees 5 lakhs per annum. A non-recurring expenditure of rupees 1 lakh may also be involved at the initial stage.

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## MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 6 of the empowers the Central Government to make rules to carry out the purposes of the Bill. The matters to which rules may be made under this clause are matters of detail or procedure and as such the delegation of legislative power is of a normal character.

## V

BILL No. XVIII OF 1982

*A Bill further to amend the Constitution of India.*

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. This Act may be called the Constitution (Amendment) Act, 1982. Short title.
2. For article 347 of the Constitution, the following article shall be substituted, namely:— Substitution of new article for article 347.
- “347. On a demand being made in that behalf by any linguistic minority group within a State the President shall direct that such language shall also be recognised throughout that State or any part thereof, for such purposes as he may specify:

Provided that no such recognition shall be granted unless ten per cent. population of that State or a district or a block within that State speak that language and that language has been specified in the Eighth Schedule or recognised in that State as medium of mother-tongue at the primary stage of education.”

*Explanation.*—In this article, the expression “population” means the population as ascertained at the last preceding census of which the relevant figures have been published.

3. For article 350A of the Constitution, the following article shall be substituted, namely:— Substitution of new article for article 350A.
- “350A. Every State and every local authority within the State shall provide adequate facilities for instructions in the mother-tongue at the primary stage of education and for teaching the mother-tongue as a compulsory subject at the secondary stage of education to children belonging to linguistic minority groups; and the President may issue such directions to any State as he considers necessary or proper for securing the provision of such facilities.”

## STATEMENT OF OBJECTS AND REASONS

No State in India is linguistically homogenous. Every State/Union territory in India has linguistic minorities, speaking scheduled as well as non-scheduled languages. Even these languages which are spoken by vast majorities in one State, from linguistic minorities in the other. Within a State concentration varies from one part of the State to another. All linguistic minorities would like their languages to be used in education and administration, as they face the threat of assimilation by the major linguistic groups, if their mother tongues are not taught or so used.

The constitutional position is not clear. In Article 347, the word 'substantial' gives rise to ambiguity, while Article 350A is not mandatory. Thus linguistic conflicts have remained unresolved and simmering conflicts can at time reach explosive proportions.

In order to avoid conflict, a uniform national policy is essential. The Bill proposes that for purpose of administrative use, the Block should be the unit and the criterion should be whether a given linguistic group forms 10 per cent. of its population. 10 per cent as a cut-off point appears reasonable and administratively feasible. Similarly, it should be mandatory for the State to provide primary education through the medium of the mother-tongue and to teach it at the secondary level, as a compulsory subject. These steps alone will guarantee that the minority languages continue to flourish and national integration is promoted.

Hence this Bill.

SYED SHAHABUDDIN.

## VI

## BILL No. XXIII OF 1982

*A Bill further to amend the Representation of the People Act, 1951*

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1982.

Short  
title  
and  
com-  
mence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1951.

2. In section 21 of the Representation of the People Act, 1951 (hereinafter referred to as the principal Act) for the words "Government of the State, designate or nominate a returning officer who shall be an officer of Government or of a local authority", the words "Chief Electoral Officer of the State, designate or nominate a returning officer", shall be substituted.

Amend-  
ment of  
section 21.

3. In section 22 of the principal Act, the Proviso to sub-section (1), shall be omitted.

Amend-  
ment of  
section  
22.

4. After Chapter VI of the principal Act, the following new Chapter shall be inserted, namely:—

Insertion  
of new  
chapter  
VI-A.

"CHAPTER VIA—DEFECTIONS AFTER ELECTIONS

"70A. If a person who has been elected to either House of Parliament or to either House of the Legislature of a State, changes his party affiliation, his seat in that House shall be deemed to have been vacated from the date he changed his party affiliation.

Vacation  
of seats  
on defec-  
tion.

*Explanation.*—Change of party affiliation means the change of his allegiance to any other party from the party on whose election symbol or support he was elected."

## STATEMENT OF OBJECTS AND REASONS

The electorate want that an elected person should not defect from the party on whose ticket he fought and won the election. Some candidates after election have been changing sides according to the exigencies of the situation for their personal ends and forget the wishes of the electorate who had elected them. To avoid such a situation, it is proposed to insert a new Chapter VIA in the Act.

Sections 21 and 22 of the Representation of the People Act, 1951 are also sought to be amended to provide that the Returning Officer need not be the officers of the Government or officers of local Authorities. It is further proposed that the Election Commission shall designate or nominate them in consultation with the Chief Electoral Officer, and not in consultation with the State Governments. It is hoped that these provisions will undoubtedly be an improvement over the existing election law.

There cannot be two opinions that the purity of elections is so essential for the maintenance of democracy in our country. Misuse of power by the Ruling party at the time of elections has to be avoided. It is hoped that these amendments will achieve that purpose.

Hence this Bill.

J. P. GOYAL

## VII

## BILL No. XXIV OF 1982

*A Bill to provide for statutory protection to the consumers of goods and services and for matters connected therewith.*

WHEREAS it is necessary to create an appropriate machinery for ventilating the grievances of the consumers and to provide for speedy settlement of such grievances and thus to protect the interest of the consumers;

Be it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Consumers Protection Act, 1982.

(2) It extends to the whole of India.

Short  
title,  
and  
extent.

2. In this Act, unless the context otherwise requires,—

Defini-  
tions.

(a) “appropriate Government” means the Central Government or a State Government, as the case may be;

(b) “consumer” means a customer who buys, or offers to buy, consumer goods or uses, or offers to use, a service on payment of a fixed and declared price or charge in cash or credit;

(c) “consumer society” means an association or a society of consumers registered under the Societies Registration Act, 1860 and formed with a view to dealing with the problems of consumers;

(d) "grievance" means a dispute or difference between a consumer and a trader or between a consumer and a company or undertaking providing services arising out of non-supply or short-supply or high price or poor quality or under-measurement, of the goods supplied or in relation to such services as are specified in the Schedule to this Act;

(e) "representative" means an authorised representative of a consumer society or an official thereof;

(f) "trader" means a person or a firm or a company or an undertaking dealing in consumer goods and services and includes public undertakings and Government Departments providing essential services.

Government to recognise consumer societies.

3. The appropriate Government shall accord recognition to a consumer society wherever formed and to its area of jurisdiction.

Constitution of Tribunal, its powers and functions.

4. (1) The appropriate Government shall, by notification in the Official Gazette, constitute a one-man Tribunal in each municipality or notified area or panchayat, as may be specified in a Notification which the appropriate Government may issue in this behalf.

(2) Every Tribunal shall consist of a person who has adequate knowledge of law and has held a judicial or quasi-judicial office for not less than five years.

(3) Every Tribunal shall be assisted by an Investigating Officer in the performance of its functions.

(4) The Tribunal shall entertain grievances of the consumer societies for conciliation or settlement, and for this purpose shall have the power to summon the parties concerned to appear before it and to produce documents, submit statements and give information and shall record evidence and statements given before it.

(5) The Tribunal shall complete the conciliation proceedings within a period of three weeks from the date of receipt of the complaint including getting the necessary investigation made by the Investigating Officer.

(6) The Tribunal shall make its award after giving to the parties concerned an opportunity of being heard.

(7) Any party not satisfied with the award of the Tribunal may take recourse to the civil courts in accordance with the provisions of the relevant law, and the Tribunal shall transfer all the records of the case along with its finding and award to the Civil Courts on a request from the Court concerned for doing so.

Procedure for making a complaint.

5. (1) Any consumer shall have a right to present his grievance, in the prescribed form, to the consumer society which has jurisdiction in relation to the place of residence of the consumer or the place of business of the trader, within eight days of the date of occurrence of the grievance.



(2) The consumer society shall act on behalf of any resident of the area under its jurisdiction in respect of the grievances falling under this Act and shall refer the same to the Tribunal within a week of its receipt with its preliminary finding arrived at after contacting the concerned trader.

6. The appropriate Government may, by notification in the Official Gazette, direct that any power exercisable by it under this Act or the rules made thereunder shall be exercisable by such officer or authority subordinate to it as may be specified in the Notification.

Powers  
to be  
exer-  
cised by  
officers.

7. The appropriate Government may, by notification in the Official Gazette, amend the Schedule to this Act, from time to time, for specifying the type of goods or services for the purposes of the Act.

Amend-  
ment of  
the  
Schedule.

8. (1) The appropriate Government may, by notification in the Official Gazette, make rules for carrying out the purposes of this Act.

Power  
to make  
rules.

(2) In particular and without prejudice to the generality of the foregoing power, the rules may provide for all or any of the following matters, namely:—

(a) the regulations regarding the jurisdiction of the consumer societies;

(b) the qualifications and methods for recruitment to the posts of Investigating Officer;

(c) the procedure to be followed by the Tribunal in dealing with the grievances;

(d) the forms for recording the grievances and the result of the investigation; and

(e) the duties and powers of the Investigating Officers.

### THE SCHEDULE

1. Public transport including the railways, water transport, air service, road transport run by public undertakings or by private carriers including buses, taxis, scooters, trucks, vans and other such means of transport.

2. Power supply for domestic consumption or for industrial consumption.

3. Municipal services rendered by municipalities or municipal corporations, notified areas, committees, panchayats.

4. Medical services rendered by public and private hospitals, clinics and medical practitioners.

5. Communication and telecommunication services rendered by the Posts and Telegraphs Department.

6. Banking and Insurance services rendered by Banks and Insurance Companies.

### STATEMENT OF OBJECTS AND REASONS

At present a consumer is helpless not only against a dishonest trader but even against the apathy of Government Departments and Public Sector Undertakings which provide services. The provisions of the Essential Commodities Act, 1955, and Drugs Control Act, 1950, have not benefited the average consumer. He is helpless both against the profiteering hoarders and the corrupt or inefficient bureaucrat. It is therefore, essential for the consumers to organise themselves into consumer societies and for the State to recognise these societies and to provide a forum for the consumer societies to take up the grievances of the consumers in order to provide a ready means of conciliation.

Hence this Bill.

SYED SHAHABUDDIN

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### FINANCIAL MEMORANDUM

Clause 4 of the Bill provides for constitution of Tribunals for each municipality or notified area by the appropriate Government and provides for appointment of Investigation Officers. These Tribunals and Investigation Officers will have to be appointed for the Union Territories also. The Bill, therefore, if enacted, will involve expenditure from the Consolidated Fund of India. It is likely to involve a recurring expenditure of rupees twenty five lakhs per annum from the Consolidated Fund of India.

It is also likely to involve a non-recurring expenditure of rupees ten lakhs.

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### MEMORANDUM REGARDING DELEGATED LEGISLATION

Clause 8 empowers the appropriate Government to make rules for carrying out the purposes of the Act. The matters on which the rules are to be made will be those pertaining to jurisdiction of consumer societies, qualifications, etc., of the Investigating Officer, the procedure of the Tribunal, etc. These matters are of merely procedural details. The delegation of legislative power is of a normal character.

## VIII

## BILL No. XX OF 1982

*A Bill further to amend the Representation of the People Act, 1950.*

BE it enacted by Parliament in the Thirty-third Year of the Republic of India as follows:—

1. (1) This Act may be called the Representation of the People (Amendment) Act, 1982.

Short  
title and  
commence-  
ment.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

43 of 1950.

2. In section 13A of the Representation of the People Act, 1950 (hereinafter referred to as the principal Act) for sub-section (1), the following sub-section shall be substituted, namely:—

Amend-  
ment of  
section  
13A.

“(1) There shall be for each State a Chief Electoral Officer, who shall be a District Judge designated or nominated in this behalf by the Election Commission in consultation with the High Court of the State.”

3. In section 13AA of the principal Act, for sub-section (1), the following sub-section shall be substituted, namely:—

Amend-  
ment of  
section  
13AA.

“(1) For each District in a State other than a Union territory, the Election Commission shall, in consultation with the Chief Electoral Officer, designate or nominate a District Election Officer.”

4. In section 13B of the principal Act, in sub-section (1), for the words “such officer of Government or of a local authority as the Election Commission may, in consultation with the Government of the State in which the constituency is situated, designate or nominate in this behalf”, the words “designated or nominated in this behalf by the Election Commission in consultation with the Chief Electoral Officer of the State”, shall be substituted.

Amend-  
ment of  
section  
13 B.

## STATEMENT OF OBJECTS AND REASONS

In recent years doubts have arisen regarding misuse of certain provisions of the Representation of the People Act, 1950.

2. The officers mentioned in Part IIA *viz.*, Chief Electoral Officer, District Election Officers, Electoral Registration Officers, Assistant Electoral Registration Officers, have to be designated or nominated by the Election Commission in consultation with the Government of the State concerned and all of them have to be officers of the Government or of a local authority. It has been seen that in some cases these officers are pressurised to misuse their powers to further the prospects of election of a particular party or candidate. In order to avoid such situations, amendments have been proposed in the relevant sections so that the influence of the State Governments in the elections is eliminated to a great extent.

J. P. GOEL

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SUDARSHAN AGARWAL

*Secretary-General*